

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 1:07-cr-183-WKW
)	
RICKEY RANDELL WREX SMITH)	

ORDER

This case is before the court on the defendant's Motion for Continuance (Doc. # 49) of the trial. The criminal case is currently set for trial during the June 23, 2008 term. For the reasons set forth below, the court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(8)(A).

In support of the Motion for Continuance, defense counsel explains that he "has a heavy trial load at this time and has not had sufficient time to prepare this case for trial." Defense counsel does not represent that he has conferred with the government to ascertain whether the government is opposed to the motion. Because this case involves serious charges and correspondingly serious penalties if Mr. Smith is convicted, the court finds that the ends of justice served by continuing this

trial outweigh the best interest of the public and Mr. Smith in a speedy trial in order for Mr. Smith and his counsel to prepare a zealous defense. However, defense counsel is cautioned that no further continuances based on his preparation for trial, or lack thereof, will be granted.

Accordingly, it is ORDERED that the defendant's Motion for Continuance (Doc. # 49) is GRANTED. Trial in this matter is continued from June 23, 2008, to the undersigned's term of court beginning on September 22, 2008, at 10:00 a.m.

DONE this 10th day of June, 2008.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE